

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GUY WOODARD,

Plaintiff,

v.

JAMES COX et al.,

Defendants.

Case No. 2:14-cv-272-RFB-NJK

ORDER

I. DISCUSSION

Plaintiff, who was a prisoner in the custody of the Nevada Department of Corrections (“NDOC”) at the time he initiated this case, submitted his original 42 U.S.C. § 1983 civil rights complaint to this Court on February 21, 2014. (ECF No. 1-1). On April 22, 2014, this Court issued a screening order which permitted Counts I, II, and III to proceed and dismissed Count IV with prejudice. (ECF No. 3 at 8-9). This Court stayed the case for 90 days to give the parties an opportunity to settle this case through informal settlement discussions. (ECF No. 3, 5). At the conclusion of the stay, the parties indicated that they thought their case would benefit from an early mediation conference with a neutral evaluator. (ECF No. 13, 17). This Court scheduled a settlement conference for October 28, 2014. (ECF No. 16).

On September 10, 2014, Plaintiff filed a motion for leave to amend his complaint and states that he had discussed this motion with opposing counsel during the informal settlement discussions. (ECF No. 20). Plaintiff attached his proposed amended civil

1 rights complaint to his motion. (ECF No. 20-1).

2 Plaintiff is granted leave to file an amended complaint. However, Plaintiff is
3 advised that an amended complaint supersedes the original complaint and, thus, the
4 amended complaint must be complete in itself. *See Hal Roach Studios, Inc. v. Richard*
5 *Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (holding that “[t]he fact that a
6 party was named in the original complaint is irrelevant; an amended pleading
7 supersedes the original”); *see also Lacey v. Maricopa Cnty.*, 693 F.3d 896, 928 (9th Cir.
8 2012) (holding that for claims dismissed with prejudice, a plaintiff is not required to
9 reallege such claims in a subsequent amended complaint to preserve them for appeal).
10 Plaintiff’s amended complaint must contain all claims, defendants, and factual
11 allegations that Plaintiff wishes to pursue in this lawsuit.

12 The Court notes that Plaintiff’s original complaint (ECF No. 4) provides more
13 specific factual allegations as to each defendant than does the proposed amended
14 complaint (ECF No. 20-1). The Court notes that the proposed amended complaint only
15 identifies the actions of one defendant, Correctional Officer Richardson. (ECF No. 20-1
16 at 4). The Court grants Plaintiff 30 days from the date of this order to notify this Court
17 whether: (a) Plaintiff chooses to proceed with the proposed amended complaint (ECF
18 No. 20-1); (b) Plaintiff chooses to withdraw the proposed amended complaint and
19 proceed with the original complaint (ECF No. 4); or (c) Plaintiff chooses to file a
20 proposed second amended complaint. If Plaintiff chooses to file a proposed second
21 amended complaint he must file the second amended complaint within 30 days of the
22 date of this order. Furthermore, if Plaintiff chooses to file a proposed second amended
23 complaint, the Court directs Plaintiff to “[s]tate the facts clearly, in [his] own words, and
24 without citing legal authority or argument . . . [and to be sure to] describe exactly what
25 each specific defendant (by name) did to violate [his] rights.”

26 **II. CONCLUSION**

27 For the foregoing reasons, it is ordered that that the motion for leave to file an
28 amended complaint (ECF No. 20) is granted.

1 It is further ordered that, within 30 days from the date of this order, Plaintiff shall
2 notify this Court whether: (a) Plaintiff chooses to proceed with the proposed amended
3 complaint (ECF No. 20-1); (b) Plaintiff chooses to withdraw the proposed amended
4 complaint and proceed with the original complaint (ECF No. 4); or (c) Plaintiff chooses
5 to file a proposed second amended complaint.

6 It is further ordered that, if Plaintiff chooses to file a proposed second amended
7 complaint, Plaintiff shall file the complaint within 30 days of the date of this order.

8 It is further ordered that the Clerk of the Court shall send to Plaintiff the approved
9 form for filing a § 1983 complaint, instructions for the same, and a copy of his original
10 complaint (ECF No. 4). If Plaintiff chooses to file a second amended complaint, he must
11 use the approved form and he shall write the words "Second Amended" above the
12 words "Civil Rights Complaint" in the caption.

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14 DATED THIS 11th day of September, 2014.

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17 NANCY J. KOPPE
18 UNITED STATES MAGISTRATE JUDGE
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